

**REMARKS**

Favorable reconsideration of this application, in light of the preceding, amendments and following remarks, is respectfully requested.

Claims 1-22 are pending in this application. By this Amendment, claims 1-22 are amended, and claims 23-29 are added. No claims are cancelled. No new matter is added. Claims 1, 19, 20, 21, and 22 are the independent claims. Applicants note with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the U.S.P.T.O. Applicants also respectfully note the present action indicates that the drawings have been accepted by the Examiner.

**Rejections under 35 U.S.C. § 101**

Claims 1-18 are rejected under 35 U.S.C. § 101 because the claims are directed to a recording medium storing non-functional descriptive material. Applicants respectfully traverse this rejection for the reasons detailed below.

Applicants respectfully submit that the Examiner has incorrectly characterized the recording medium as storing **nonfunctional** descriptive material. The Manual of Patent Examining Procedure (MPEP) provides guidance on the difference between "nonfunctional descriptive material" and "functional descriptive material". In particular, MPEP § 2106.01 states the following:

In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5<sup>th</sup> ed. 1993).) "Nonfunctional descriptive materials" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

Accordingly, Applicants respectfully submit that a “computer readable medium storing a data structure for managing reproduction of at least one of video and audio data performed by a reproduction device” as recited in independent claim 1, is a computer readable medium storing functional descriptive material.

MPEP § 2106.01(I) further states, regarding functional descriptive material, that “a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” Accordingly, because the computer readable medium recited in claim 1 includes a data structure having a navigation area storing at least one navigation file for managing reproduction of data by a reproductive device, claim 1 is clearly directed towards patentable, statutory subject matter.

In light of the above, Applicants respectfully request that the rejection of independent claim 1, and claims depending therefrom, under 35 U.S.C. § 101 be withdrawn.

#### **Rejections under 35 U.S.C. § 102**

Claims 1-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Saeki (U.S. PG PUB 2001/00043790) (hereinafter “Saeki”). Applicants respectfully traverse this rejection for the reasons detailed below.

Applicants have amended independent claim 1 to recite, *inter alia*, “a data area for storing the at least one of video and audio data” and “a navigation area, separate from the data area, for storing at least one navigation file.”

Applicants submit that Saeki does not disclose this feature. Rather, in Saeki, the data recorded in the data area includes file system management information, AV data, AV data management file, and non-AV data. See Saeki, paragraph [0062]. In other words, the AV data

and the file system management is stored in the same area, as opposed to separate areas required by amended claim 1. See Saeki, FIGS. 3D and 5.

Accordingly, Saeki cannot disclose “a data area for storing the at least one of video and audio data” and “a navigation area, separate from the data area, for storing at least one navigation file” as required by amended claim 1. Therefore, Saeki cannot anticipate claim 1. Claims 2-18, dependent on claim 1, are patentable for the same reasons stated above, as well as their own merits. Furthermore, claims 19-22 contain features similar to claim 1, and therefore are patentable for the same reasons. New claims 23-29, dependent on claims 21 and 22, are patentable for the same reasons stated above, as well as their own merits.

The Applicants, therefore, respectfully request that the rejection to Claims 1-22 under 35 U.S.C. § 102(e) be withdrawn.

**CONCLUSION**

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By

\_\_\_\_\_  
Gary D. Yacura, Reg. No. 35,416  
P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

GDY/JBS:gew

**CONCLUSION**

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

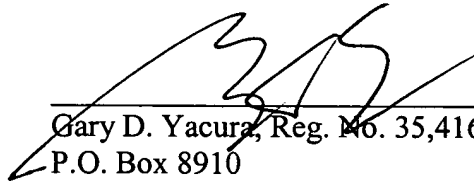
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By

  
\_\_\_\_\_  
Gary D. Yacura, Reg. No. 35,416  
P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

GDY/JBS:gew